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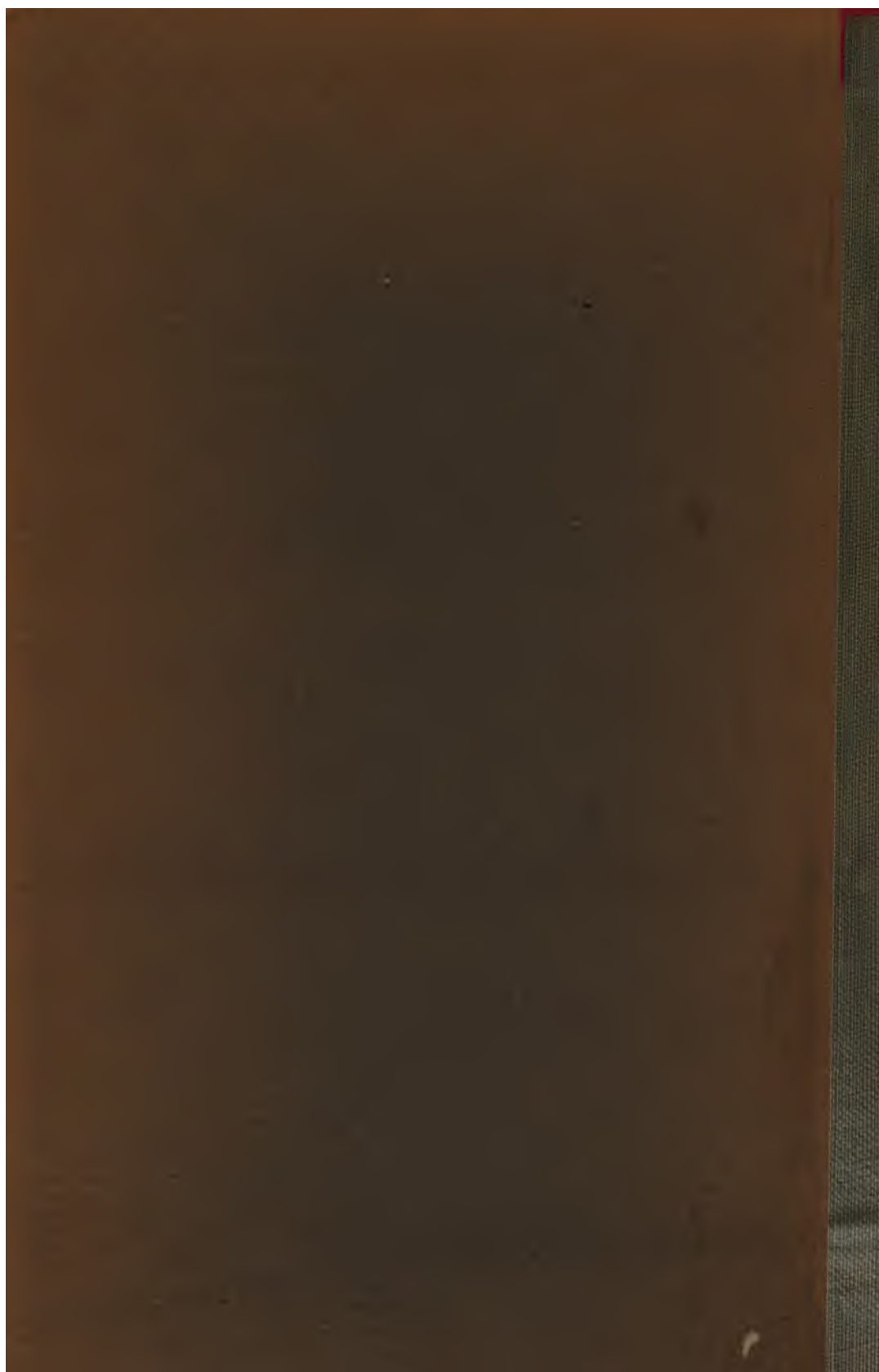
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THE
GOVERNMENT
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RAILROAD CORPORATIONS.

BY

CHARLES F. ADAMS, JR.

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THE GOVERNMENT AND THE RAILROAD CORPORATIONS.

Two years ago at this time, and again one year ago, an effort was made in the pages of this Review to discuss certain matters incident to the growth of the wonderful railroad system of the country ; to call attention to some of the abuses arising out of its present form of management ; and, finally, to indicate, as definitely as might be, a few of the more obvious dangers with which this portentous development seemed to threaten our political institutions. The material and moral advantages of this development do not need to be dwelt upon ; they are apparent to all. Neither the capital nor the labor of the country call for any exhortations to continue in the path which has been, and will long continue to be, so rich in results. The thousands of miles of annual construction, and the increased millions of wealth and of persons transported, are arguments sufficient in themselves. They do not, however, and never will, constitute the whole of the railroad problem, and it is very desirable that they should not sink into oblivion other and hardly less important considerations. It is to these last — the considerations appertaining to the moral and political no less than to the more obvious material development of a system — that discussion has been devoted in these pages. The character of this discussion has hitherto been wholly and intentionally descriptive. It is easy to portray dangers : it is very difficult to suggest remedies. It is natural to shrink from the latter task in the hope that a simple statement of what, when stated, is very obvious, may call forth from some other quarter — from statesmen or from legislators, from those whom experience or habits of reflection have better qualified to speak authoritatively — a fitting solution of a difficult problem. No such response has in this case been elicited.

In place of it there has come up through the press and from private sources a voice rather of complaint at the shortcoming which portrayed difficulties and was silent as regarded the remedy. No one ignored the growth of the system or defended its abuses or sought to make light of the threatened dangers; neither did any one suggest any desirable innovation in our system calculated to meet the acknowledged exigency. The discussion so far has been barren; mere statement has elicited nothing. Now that another year has passed, it is proposed to recur again to the subject. The discussion must, however, this time attempt a step in advance; the cure as well as the evil must be considered. Of course no solution of a problem which all Europe as well as America is debating is likely now and here to be arrived at through any happy inspiration. The day for that sort of thing is gone by, if indeed it ever existed. Any proposed solution is, however, at least of some value for purposes of discussion if for nothing else, and does contribute something, even if that something be only of a negative character, to the grand result.

In the first place, however, a certain amount of repetition is necessary. It would be futile to suppose that the papers referred to made at the time more than a passing impression, or that the facts and inferences stated in them are yet retained in the memory of any one. Neither is any such retention necessary. As regards the matters with which those papers undertook to deal, each year's development of the railroad problem repeats the story with striking variations. No article of this sort would be complete without a rapid glance at the growth of the system during the past year, and such a review is not likely to be at all devoid of interest. The first part of this paper will therefore be devoted to the preliminary statement of difficulties which should naturally lead to a suggestion of remedies.

The points in connection with the railroad system to which the public attention has heretofore chiefly been called in these pages are few in number. Most prominent among them has been the rapid growth of individual members of the system; the tendency to consolidation and combination in all the members; the scandalous, internal abuses, incident to corporate control, and, finally, the development of a disturbing if not con-

trolling influence in our political system. A review of the incidents of the last year under each of these heads could hardly fail to be interesting, did time and space admit of it. As this, however, is out of the question, a few illustrations must suffice from which much more may safely be inferred. In the matter of consolidation, for instance, — the massing of great interests under one control, — it is unnecessary to dwell upon the details of growth of each of those four trunk lines now rapidly parcelling out among themselves all the Northern States east of the Missouri. The same principle of development, though manifesting itself through various outward phases, has controlled them all; *mutatis mutandis*, the experience of one is the experience of all. Take, for instance, the New York Central, the road which forms the nucleus of what is known as the Vanderbilt combination. Seventeen years ago it was not in existence as a corporation. In 1853 it was chartered and grew into life out of the six separate links, not one of them seventy-six miles in length, which divided the three hundred miles of road between Albany and Buffalo. This corporation was again, in its turn, merged in 1869 into the larger New York Central and Hudson River Railroad Company, which controls within the State of New York but little less than a thousand miles of track and much more than \$100,000,000 of capital. The consolidation so far was perfect, and had taken place under a State charter and within State limits. Growth, however, did not stop here; the combinations of capital simply adapted themselves to the forms of a political system. Beyond the limits of New York the corporation held, in the eye of the law, no property; it did not control a mile of track. At Buffalo, however, the Central connected with another company, itself made up of four separate primal links which had once connected Buffalo with Chicago, and which had united in obedience to the same law of development which had built up the Central. West of Chicago came yet other links in the trans-continental chain. Three lines competed to fill the gap which lay between Chicago and the eastern terminus of the Pacific Road, — the Northwestern, the Rock Island, and the Burlington and Missouri. In the autumn of 1869 the consolidation of the Central and the Hudson River took place. Immediately afterwards, at the annual

election of the Lake Shore and Michigan Southern, the Vanderbilt interest took open possession of that corporation, controlling a majority of its stock. In May, 1870, it in like manner assumed control of the Rock Island and Chicago and Northwestern. The same parties in interest were now practically the owners of a connected line of road from New York to Omaha; there was no consolidation as yet, but, so far as the public and competing roads were concerned, the close of 1870 found the six parties which but a short time before had been in possession of the trans-continental thoroughfare reduced to three. Thus rapid had been the progress of consolidation,—the irresistible law of development of the railroad system. The inference is inevitable. Seventeen years ago six roads divided the route between Albany and Buffalo, and in 1853 these were consolidated into one. Three years ago four roads connected New York with Chicago, and these four were then reduced to two. One year ago five roads divided among them the distance between the Atlantic and the Pacific; six months ago these five were practically reduced to three. How long will it be before these three are reduced to one? How long before consolidation, as yet confined to connecting, will extend to competing roads? It is perfectly useless to discuss the question whether this massing of wealth and of power is desirable or otherwise. It is sufficient to recognize the fact that it is inevitable, that it is a natural law of growth. Legislation could only wage a futile war against it; checked in one form, it would devise another; by indirections it would find directions out. It has been steadily going on from the beginning; it is now going on, and it is not likely to stop. No legislation can prevent it, even were such prevention desirable. Any attempt in this direction will but result in a recourse to subterfuge, and the practical reduction of law to a dead letter. You cannot prevent, but you may, by looking at facts as they are, not inefficiently regulate. How this can best be done is the problem.

One fact must be accepted to begin with,—the railroad system has burst through State limits. Already not a few corporations have carried their operations into half the States of the Union. Capital does not recognize the territorial divis-

ions of a common country; nominally it may evade them, but practically it destroys them. Either through the machinery of different corporations, or through consolidation, one great moneyed and managing interest is destined at no distant day to own every mile of railway on a direct line from New York to San Francisco. In what must such an ownership inevitably result? It is not wise to attempt to deal with a too remote future; but in this instance the future is very immediate, and the question at issue involves some of the most delicate considerations connected with our federal system.

What is known as the doctrine of States rights—the invaluable centrifugal force of our political organism—fell into much unmerited odium through its abuse during the progress of the irrepressible conflict. It was and is a most useful and essential feature in our constitutional polity. The American people still hold it in strong affection, and cling tenaciously to State lines and State authority. Nothing which tends to obliterate the one or diminish the other is regarded with popular favor. This is particularly the case in view of the great and growing incompetence so manifest in the national Congress. Nothing that this body now has to deal with is treated in a large and comprehensive spirit, and its legislation is almost invariably composed of shreds and tatters. Thus people do not look with favor on the prospect of yet other great and delicate interests devolving upon it. All this is true, but it will not avert the inevitable. It may be very unfortunate that our great lines of railroad should become national routes, but such considerations cannot control the fact; national routes they are, and as such they cannot much longer be organized or controlled under State laws. The Federal government must assume a certain degree of active jurisdiction as regards them, and that very shortly. The Constitution, under the clause authorizing Congress to regulate commerce between the States, clearly warrants such assumption. Under this clause Congress has always exercised a control over navigable rivers; but the commerce between the States is no longer carried on by barge or by steamer, but by rail. The question for the consideration of intelligent observers is no longer, then, Shall the national government

assume this control? but, How shall it be exercised when assumed? During every session for years past Congress has trembled upon the verge of legislation; a regulated railroad between Washington and New York being the alleged necessity. Everything that has gone upon the statute-book looking in this direction, like the Pacific Railroad business, or the land-grant system, has been of the most unfortunate character. Hitherto, however, nothing has been done which necessarily compromises the final result; no irrevocable step has been taken. That, when taken, it should be taken right, is of the last importance.

Besides the consolidation of connecting roads, another phase of the same gravitating movement was discussed at some length in this Review a year ago. In many of the States legislation has been directed against the consolidation of competing lines. Two years ago an act forbidding it was passed in New York, and more recently a provision to the same end has been incorporated into the Constitutions of Illinois and of Michigan. It is wholly unnecessary to say that all such measures of State legislation are utterly futile, almost childish. These giants have some time since outgrown State swaddling-clothes. Even had they not, the character of such legislation is most open to criticism. Certainty and responsibility in management are two of the most important requisites of a good railroad system. This is peculiarly the case in America, where almost our only machinery for the correction of abuses lies in the degree of concentration with which public opinion can be brought to bear in a given direction. If our people distinctly feel an evil and can be made to see that some one is responsible for it, there is no interest nor combination of interests which can long resist the pressure. So far as railroads are concerned, competition puts both certainty and responsibility out of the question; it renders the first impossible, and, by dividing, destroys the last. A most conclusive illustration of this proposition, as well as of the utter insufficiency of State legislation to deal with the subject, may be found in the experience of the last year.

X The system of transportation of freight through the agency of what are known as the colored lines is now pretty generally

understood. A large number of cars, colored red, white, or blue, according to the organization to which they belong, carry most of the through freight, in regard to which competition exists, from West to East. These cars in some cases belong to the railroad companies, and, in other cases, to individuals; in no case, however, do they operate for the companies individually, but for a combination of which the particular company owning the cars is a member. This combination constitutes a copartnership of corporations, having its complete and separate organization of clearing-house, accounts, clerks, agents, and runners, carrying on operations all over the country, and forwarding freight in every direction. The profits of the business are divided among the roads or individuals of which the combination consists, on a basis established in advance. The combinations are, in fact, freight express lines. During the last year the competition between these lines, and consequently between the roads over which they were operated, was bitter in the extreme. The rates made East and West were simply ruinous. On certain descriptions of freight they literally were reduced to nothing, and cattle were carried over the Erie road at a cent a head, as against one dollar a car, the rate charged on the Central. On other articles the reduction was not so great, but, both on passengers and goods, rates were purely nominal, and hardly averaged a third of the usual amounts. Of course this could not last. Early in September representatives of the competing lines met in New York, and proceeded to put a stop to competition in the one way possible among monopolists, — by combination. The parties in interest were the Central, the Erie, and the Pennsylvania Railroads. The competition was mainly from Illinois to New York. In both Illinois and New York laws forbidding the consolidation of competing lines were in force, and all the roads were carrying on operations in one or both of those States. At the meeting in question it was decided to "pool" the earnings of the colored lines to all competing points; in other words, all receipts from that business which was supposed to receive a peculiar benefit from competition, were to be paid into a common fund, competition was immediately to cease, fixed rates were to be charged, and thus, at last, all the great trunk lines were

to be practically consolidated, in so far as the business community was concerned. This arrangement was agreed to, but broke down for the moment because of quarrels among certain of the individual contracting potentates. The two irreconcilables were Gould and Vanderbilt, who represented two New York roads; and yet the New York statute-book contained a recently enacted law intended to prevent and render impracticable any combination like the one agreed upon. Not being able to effect the desired arrangement there, certain of the same parties went to Chicago, in a State where a similar provision to that in force in New York had been made a part of the Constitution, and there they actually did enter into an agreement, under which all the roads between Chicago and Omaha "pooled" their receipts between those points, and this contract went into effect. Yet no law, no constitutional restriction, was violated. No law, in fact, could be framed which would meet the case, and the solemn efforts to accomplish it were simply illustrative of the extreme ignorance prevailing among fairly intelligent men as to the practical limits of legislation.

The failure of the New York negotiation was, however, only temporary; the thing will be done, and, moreover, it is by no means clear that it is not best for the community that it should be done. In this combination at last will be found both responsibility and certainty. Rates will no longer vary with every season and to every city; points destitute of competition will not be plundered, as they now habitually are, that competing points may be supplied for nothing. During the last summer many towns in New England were charged upon Western freights heavily in advance of the sums charged for carrying the same freights on the same roads a hundred or two miles farther on. All because, through competition, the farther point was served at a loss to the carrier, and, therefore, the nearer had to pay the road profits for both, besides replacing the loss. The agents of the roads do not seek to deny this; they acknowledge and defend it. They say, and say truly: "We must live. If our through business is done at a loss (and they show that it was done for nothing), then our local business must pay for all." This was the case in New England. The cities of central New York fared no better. During a war

of rates, almost any manufactured article will be carried from the seaboard to the West for perhaps one half of the amount charged for carrying the article there from a semi-interior point. So also as regards Eastern freights. Syracuse, Rochester, and the like class of cities can neither compete on equal terms with Boston in the markets of the West, nor with Chicago in those of the East. The discrimination against them is said to amount in certain cases to ten per cent of the whole value of the article transported. Neither, under the existing system, is there any remedy for this evil, and a consciousness of this fact, of the risk to which they are continually exposed, has caused the breaking up of many manufacturing establishments at interior points.

Again, the element of gambling is not considered as an advantageous one in the transaction of business. To eliminate it, to equalize, to insure stability and an even operation of natural laws in trade, is one attribute of an advancing civilization and a chief result of science. Does not a sudden change in a tariff—a change sprung on the community in an hour, ranging all the way from one hundred to fifteen thousand per cent on all classes of freights—infuse an element of chance into current transactions? Just this fluctuation took place in September, 1870. How, also, can the business community deal with certainty, or make orders or contracts, when to-day it may cost far more to send goods from Boston to Chicago than from New York, and to-morrow New York firms may have to ship their goods to Boston as the cheapest way of getting them to the West. Thus competition by rail, unlike that by sea, knows no law of supply and demand; there is always a given supply of machinery, wholly irrespective of the demands of trade. Here, then, is no certainty, no stability; a great evil exists; yet who is to be held responsible for it? Upon what point is public opinion to be concentrated? It cannot be on the system, for nothing of the sort in an organized form exists; neither can it be on individuals, for they clearly cannot control events, otherwise there would be no recourse to "pooling." The responsibility, in fact, is absolutely divided away; it does not exist.

States and legislatures will doubtless for some little while

longer cling to the idea of competition as regulating tariffs by rail, but it must break down in the end. The value of competition as affecting the railroad service lies in the superior quality of the service it exacts, the promptness, comfort, civility, and general regard to the wishes of the public. This is instantly apparent to any one who passes from the competing roads east of the Missouri on to the Central Pacific. These things no law can regulate, but competition does ; the whole subject of rates, on the other hand, the law can and ultimately must regulate. Competition merely causes them to fluctuate wildly, according as an internecine war or a combination to plunder may for the moment prevail.

A fixed *minimum* of railroad charges is no less essential to the community than a fixed *maximum*. One point or section or town cannot, on such a vital matter as transportation, be at the mercy of a competition which may exist to another. The moment it is, all stability and certainty vanish from industry. Such an element of chance is worse even than the droughts and ice which affected carriage by water. How and by whom is this great business of transportation through monopolies to be regulated ? One man cannot buy up Lake Erie or the Missouri, and drive away from their waters every boat not owned by him ; yet channels more important to the trade of a continent than any lake or any river, no matter how large or how long, are now held in practical ownership by a few of the most notoriously unscrupulous men in the whole land, to be regulated as to them may seem good. Under the present *régime* they cannot even be held to a responsibility. That such a system should be permanent is the reverse of probable.

There only remains sufficient space to allude to one more subject in this connection. The power of these corporations in the hands of corrupt men as a disturbing and degrading influence in our politics, and the crying abuses so notorious in the internal administration of corporate affairs, have of late occasioned no inconsiderable degree of public solicitude. Examples of both descriptions of evil referred to are always at hand, and the year just past has been peculiarly prolific of them. Certain instances, however, pall by force of repetition ;

certain men succeed in acquiring a pre-eminence in infamy which actually destroys their value for purposes of illustration. The world grows weary of hearing of them. The frauds and outrages in the Erie management, for instance, have, perhaps, been dwelt upon *ad nauseam*. Not that justice has been, or, outside of a prison door, well can be done to their perpetrators, but nothing implicating them can longer excite surprise. From the leading criminals themselves to the counsel who revel in their dirty work, these men have now brought all the discredit they can on everything with which they live in contact, from American credit down to the New York bar. It is, therefore, hardly worth while to go on with the contributions of another year to their long bead-roll of offences. A new illustration from other quarters of the abuse of political influence would be more effective. Even if no evidence should be found to exist of the perpetration of fraud, yet the opportunity for it may exist so evidently,—the way, if the will were only there,—that the propriety of removing from erring humanity such an ever-present temptation may prove a subject worthy of grave discussion. Upon looking over the broad field, various scandals at once suggest themselves. The incidents of the recent Congress and its suspicious squandering of public lands would naturally be the first. Especially those vast grants which have endowed a single corporation—the Northern Pacific—with an appanage nearly equal to a dozen States of the size of Massachusetts, and hardly, if at all, falling short of the united areas of the five second-class European kingdoms of Denmark, Holland, Belgium, Portugal, and Greece. At one time during the last winter there were railroad schemes pending before Congress which appropriated four hundred million acres of the public domain,—an area larger than the whole original thirteen Colonies. Of the Southern States it would be mere waste of time to speak. Their railroad bond transactions command no confidence, and would not reward the trouble of exposure, however plentifully they might furnish the material of bitter satire. New York, its legislature, its courts, and its corporations, are, for reasons already given, outside the pale of discussion. The case here is conceded, and the \$ 5,000,000 check which the thoughtless Vanderbilt signed

without a glance, as a mere detail in the business of a morning, is as inadmissible as are the unending wars of Colonel Fisk, or the experiences of Mr. Burt in the committee-rooms at Albany. Massachusetts next offers a tempting field, but perhaps on an insufficient scale. The Hartford and Erie proceedings were as gross an outrage on common honesty, and even common decency, as lawyer ever sought to palliate, or a venal lobby to sustain. That a corporation should waste its substance in stock-jobbing, and gamble away funds held in trust in operating for its direction's benefit in its own securities, is notable enough; that beyond all this, the same corporation should persuade a legislature to loan it yet other funds to replace those lost in the game of chance would seem incredible. Yet all this took place, and the veto power alone saved the honor of the State. Neither were the proceedings in New Hampshire devoid of interest. In that State the proceedings, both of the executive and of the legislature, strikingly illustrated the vicissitudes of corporate life. A president-governor played for his railroad with its stockholders, and the legislature was umpire in the game. These examples might be too local in their interest. Illustrations may equally well be drawn from larger corporations operating in more central sites; take, for example, the record of the Pennsylvania railroads in the legislature of that State.

The Pennsylvania Railroad should need no introduction to any American reader. It is probably to-day the most powerful corporation in the world, as, indeed, it owns and operates one of the oldest of railroads. Its organization, as compared with that of its great rival, the New York Central, bears the relation of a republic to an empire. Cæsarism is the principle of the Vanderbilt group; the corporation is the essence of the Pennsylvania system. The marked degree in which the character of the people have given an insensible direction to the management of their corporations in these two States is well deserving of notice. In New York politics the individual leader has ever been the centre; in Pennsylvania, always the party. The people of this last State are not marked by intelligence; they are, in fact, dull, uninteresting, very slow and very persevering. These are qualities, however, which they hold in

common with the ancient Romans, and they possess, also, in a marked degree, one other characteristic of that classic race, the power of organization, and through it of command. They have always decided our presidential elections; they have always, in their dull, heavy fashion, regulated our economical policy; their iron-masters have in truth proved iron masters indeed, when viewed by other localities through the medium of the protective system by them imposed. Not open to argument, not receptive of ideas, not given to flashes of brilliant execution, this State none the less knows well what it wants, and knows equally well how to organize to secure it. Its great railroad affords a striking illustration in point. It is probably the most thoroughly organized corporation, that in which each individual is most entirely absorbed in the corporate whole, now in existence. With its president and its four vice-presidents, each of whom devotes his whole soul to his peculiar province, whether it be to fight a rival line, to develop an inchoate traffic, to manipulate the legislature, or to operate the road, — with this perfect machinery and subordination there is no reason why to-day the corporation should not assume absolute control of all the railroads of Pennsylvania. Indeed, it could take possession of the State government, if it really desired to do so. His Excellency the Governor might very appropriately be one of the vice-presidents of the road, and, indeed, while such a connection would add largely to the executive influence, it is doubtful if it would proportionately increase the political power of the corporation. Such solidity in one party to a conflict is almost sure ultimately to overcome the *elan* of rivals like those it has to encounter from New York.

Such is this great corporation, high in credit in the money-markets of the world, careful withal of its outward repute, apparently unbounded in its resources. Organized so long ago as 1831, it had thirty miles of road ready for operation in the succeeding year. Not until 1854, however, was the Pennsylvania Railroad proper completed. It then controlled the line from Harrisburg to Pittsburg, two hundred and ten miles, which had cost a little less than \$17,000,000, and was represented by about \$12,000,000 of stock and \$7,000,000 of

indebtedness. This might be considered the starting-point; \$3,500,000 of annual gross earnings on a capital a little less than \$20,000,000. For many years its growth was confined to Pennsylvania. In 1869, however, its policy in this respect underwent a change, and it burst through State limits, extending its field of operations over the vast region lying between the great lakes and the Ohio upon the north and south, and the Missouri on the west. The corporation now owns nearly four hundred miles of road in Pennsylvania, and directly controls twelve hundred miles more, almost entirely within the same State; beyond its limits it leases and operates nearly sixteen hundred miles in addition,* holding the stock and bonds of railroads, canals, towns, and cities, like some vast *Credit Mobilier*; it has, indeed, no less than \$20,000,000 standing on its books as represented by these investments. Meanwhile in the sixteen years its own capital and indebtedness has swollen from \$20,000,000 to \$65,000,000, with a liberty secured to increase them to nearly \$100,000,000; at the same time the system of roads which it holds in its hands returns a yearly income of hardly less than \$40,000,000, of which about \$10,000,000 is claimed as net profit.

When it is remembered that one third of all the railroad mileage in Pennsylvania is directly controlled by this company, some idea may be formed of the influence exercised by it in a legislative body, famous since the days of Nicholas Biddle for subservience to moneyed influence. This corporation, however, does not stand alone; mighty in itself, it is also the acknowledged head of that secular railroad hierarchy which shapes the destinies of Pennsylvania, and is immediately represented in every branch of the national government. It is, indeed, intrenched in power, and, while it avoids all noisy scandal, it may also defy attack.

In the winter of 1870 the Pennsylvania combination was as

* As these pages are passing through the press it is announced that the Pennsylvania Railroad has further effected a lease of all the property of the Camden and Amboy corporation. The value of the property thus transferred is stated to be over \$40,000,000. As the entire region north of the Potomac must now be regarded as parcelled out among the four contracting powers, this might deserve, in so far as the Erie and New York Central are concerned, to be referred to as a "portentous rectification of frontiers."

busily engaged as ever in its schemes of expansion, and was casting its eager eyes about in search of ways and means. These finally rested on no less a quarry than the sinking fund of the State itself, solemnly pledged by constitutional provision to the payment of the public debt. It amounted to \$9,500,000, and an attempt upon it was resolved. The necessary arrangements were silently perfected. The Constitution of the State bristled with adverse provisions. In order to prevent "log-rolling," it was provided that but a single measure could be contained in any one bill; another clause directly inhibited the Commonwealth from having financial relations with any private corporation; a third clearly asserted the sacred character of the sinking fund, and guaranteed it to specific purposes. Each of these difficulties was circumvented. Every step of the process constituted a study in legal legerdemain. The several acts necessary to incorporate the various enterprises, which constituted the common bond of the combination, were passed separately, in accordance with constitutional requirement; to outward appearance they were proper, and even desirable measures. The organic acts thus lay on the statute-book, dead letters; it remained to infuse into them the breath of life. The legislature could still include but one subject in any single act, and could loan neither the public credit nor the public money to private corporations. Now came the masterpiece. One sweeping general act in relation to railroads directed the substitution of the bonds of these companies not yet organized, and whose roads were not commenced and might never be profitable, for the undoubted securities which represented the sinking fund in the treasury of the State. The legislature thus did not loan the credit of the State, did not lay its hands upon the sinking fund, it only, in the exercise of a sound discretion, substituted one security in the treasury for another; that the one security was undoubted, and the other less than doubtful, was notorious, but not set forth in the act. A more audacious scheme of plunder could hardly have been devised. The influence of great corporate wealth was sharply illustrated in the subsequent history of this measure. It encountered almost no opposition until it was submitted for executive approval as a law. The very press

of the State was dumb, and if it did not actively sustain, was contented silently to acquiesce. So far as public opinion and the legislative department were concerned, a railroad combination owned the Commonwealth. Through some oversight the executive had not been secured ; the bill was returned by Governor Geary with a veto message which should be lastingly remembered to his credit. That the grounds taken in this document were irrefutable by no means accounts for the failure of the legislature to enact the measure into a law by the necessary two-thirds vote. It is difficult to say why the corporations shrunk from the conflict, — whether from motives of policy, or from pure surprise at such unwonted temerity. Shrink, however, they did, and, for the moment, the sinking fund of the Commonwealth was safe.

The Pennsylvania hierarchy is, however, never discouraged. This same measure, or any similar measure which it sees fit to urge, will ultimately become a law. Its method of procedure in all such cases is so organized, so silent, so sure, that it has cast a sort of spell over the mind and conscience of the State ; resistance to it seems hopeless ; a fatality accompanies its progress. Discuss the propriety of opposing it with intelligent Pennsylvanians, and their language is that of hereditary bondsmen ; they may abuse it and pass all manner of harsh and, perhaps, unjustifiable criticisms upon its course and method of dealing, but to resist it, to regulate it, seems to them like a suggestion of the impossible, like a proposition to resist the tide or to regulate the sun.

Three essential features in the growth of the railroad system have now been briefly referred to and illustrated ; the consolidation of connecting roads, obliterating State limits ; the combination of competing roads, evading State jurisdiction ; finally, the concentration under corporate control of a degree of wealth and influence greater than any existing machinery of State government can control. It is useless further to pursue this branch of the discussion. It might, perchance, be profitable to do so, were the difficulties, political and moral, which have hitherto been dwelt upon met in any quarter with a denial. This, however, is not the case. If the conclusions were not obvious from the experience of other States, the outrages annually

perpetrated, both by courts and legislature, under the name of law in New York would place them beyond the need of proof. In that State even the corporate system itself has broken down. The stockholder has no longer a voice in the management of the affairs of the corporation. The annual farce enacted in the Erie offices, when the *de facto* possessors of that thoroughfare go through the form of renewing their control over it, is an illustration in point. From whatever side the discussion is approached it leads to the same result. The existing railroad system, both internally and externally, as regards the legislature, the exchange, and the stockholder, — as serving the community by competition or through combination, is in an unsatisfactory and dangerous condition. Materially it is a great success; that fact has hitherto enabled it to support its abuses, and may continue to do so for some time longer. A rapid change, however, is visible even to the least observant. Competition was the soul of our system; yet competition is steadily yielding to the desire for combination. The corporate principle has failed no less than competition, and the idea of management through representation has already given way to the one-man power. Regulation through State authority has proved the saddest failure of all, for the energetic whole can hardly be controlled by the incompetent government of a part. None of these propositions can be successfully controverted. It only remains, then, to pass to the other and far more difficult branch of the discussion. The remedy is to be treated of; the next phase of development is to be considered. The prospect of any great result attending the present effort in this direction is not brilliant; while, however, not much is likely to be gained through the attempt, little is jeopardized by it.

That the national government must then, soon or late, and in a greater or less degree, assume a railroad jurisdiction, is accepted as an obvious conclusion to be deduced from the irresistible development of the system in a course it has hitherto pursued. The next question is when, and in what way, and to what extent, is this to be done? What is to be the basis of legislation? This now admits of almost infinite modification, ranging from public ownership on the one hand, to the most limited regulation on the other. The same may be said

as to extent of jurisdiction. It may be assumed over all roads lying in more than one State, or it may be confined to certain trunk lines specially designated as military and post roads. These questions it is now premature to discuss. They constitute the final problem. All other proposed solutions of it, resting upon State regulation or State control, are but temporizing expedients, important simply as illustrating the practical value of certain theories. Such may prove instructive resting-places; they can hardly be the final objective. To these, however, attention should now be confined, for through them the ultimate results are to be evolved. Fortunately the national field is yet clear. The utter breakdown of all the existing State systems should at least be full of instruction to those who must build up a national policy. They will be hampered by no precedents, trammelled by no machinery, inadequate and yet existing, but they will be free to create a system both adequate to the needs of the age, and in conformity with the character of our constitutions. It is a work which in all probability must soon be undertaken, and one which might well task the ability of a Hamilton. It is greatly to be hoped that until some man competent to deal with it shall present himself and quietly assume the task, the present local chaos will be suffered to continue; otherwise we may all perchance find ourselves involved in some general muddle such as now exists in more than one locality. The preliminary difficulty in the case is very evident. It needs now to be stated with all possible emphasis, for it will continually present itself throughout what remains of this discussion, and must ever be borne in mind. The whole difficulty arises from the development of a material and moral power, or rather, perhaps, combination of powers, in our social organism which our political system was not calculated to deal with. At the time the framework of our government was put together, a system of necessary monopolies was the very last thing which was expected to present itself on this continent. Our governments, state and national, grew up among, and were calculated for, a community in the less complex stages of civilization. Our whole machinery looked to dealing with individuals, and that only in the least degree which deserved the name of government at all. The idea of

one man, or set of men, combining to own in absolute monopoly the great channels of internal communication as they then existed, — the Hudson, or the Ohio, or the great lakes, — would have been regarded as a wholly inadmissible supposition, a contingency impossible to occur. Consequently no provision was made for it. No machinery was devised calculated to meet such an improbable emergency. Yet that very emergency is now close at hand, if not already here.

To supply the national government with this supplementary power, to adapt it to the new exigency in order that it may not break down under it, is, however, the work of the morrow, and will be final in its character; that of to-day is fortunately not conclusive, but of a tentative nature; this, in short, is the period of transition. The roads are not yet out of the hands of the States; it is through them that the preliminary work is yet to be done. Something is to be derived from their experience in the past; the rest must come from their experiments in the future.

The tendency of popular thought is now undoubtedly towards the ownership of railroads by the community. The success of this system in Belgium, and the agitation in regard to it in England and in certain portions of this country, make it eminently desirable that the experiment should be tried, if only with a view of testing a theory and giving a new direction to inquiry. The present is also a time peculiarly opportune in which to make the attempt, for it can now be essayed on a small scale, involving, at most, interests comparatively trifling. The result, as bearing on the final national problem, could not fail to be most instructive. It is impossible, in view of past experience, not to entertain grave doubts as to the result of any experiment of this sort, made through the political machinery which exists in America. As regards the construction of a railroad system, it has repeatedly been tried and uniformly ended in failure. Pennsylvania, Ohio, Michigan, Illinois, and many other States went through the same sad experience. Every section with us had its claims, and those claims could not be disregarded. "Log-rolling," and the legislative "truck and dicker," were rapidly developed into an intricate study and lucrative profession. In Belgium, in France, or in Russia

a government engineer can locate a railway, and there an end ; it was found to be otherwise in America, and an impartial disregard of the figures of the census by no means resulted in a commercial success. It is, however, argued that it would be otherwise in the case of a completed system ; that if our State governments could not construct, they could at least manage railroads. This remains to be seen. That the government should engage in any business, whether as producers, as carriers, as bankers, or as manufacturers, is opposed to the whole theory of strictly limited governmental functions. Whether it is possible to secure a board outside of politics which would manage our railroads with a shrewdness and zeal equal to that displayed by individuals, stimulated by the hope of gain, is only to be decided by experience. That experience we probably shall soon have. Should, however, the experiment succeed when attempted by a State, no conclusion could safely be drawn as to its results in a national form. The Federal government is peculiarly and obviously unfitted for any work of the sort,— certainly until a thorough and sweeping reform of the civil service is effected. A purified political atmosphere may be imagined in which at some future time it would be safe for Congress to assume the management, through supervising boards, of certain designated continental routes ; but any movement in that direction would certainly, and very properly, encounter a strong and determined opposition so long as the present condition of affairs exists, and could only result in increased corruption and commercial disaster. It is difficult also to see how even experiments at State management can succeed, except under most favorable auspices and on a very limited scale. They will inevitably be attempted, not on the local roads, but upon fragments of the great trunk lines. These no one State can wholly control. It can only possess itself of the fractional portion of the whole within its own limits. This cannot answer the requirements of the community, which distinctly demands a correction of the abuses existing in the main thoroughfares. Here is where the difficulty lies. Local lines can scarcely be purified and controlled, while the through lines are amenable to no law. Any effective reform must be tested in its application to these last, and these are already

beyond State jurisdiction. While, therefore, an attempt at State ownership could hardly fail to be of great illustrative value, there are probably other directions in which experiment could more usefully be tried.

A safer solution of the difficulty may not improbably yet be found in effective regulation, than in State ownership. This last looks to the destruction of the principle of private corporate life as the basis of the railroad system, and to the adoption of the whole of it into the body politic. Regulation, on the other hand, proposes to have the government, while preserving the separation between the body politic and all private industry, yet exercise an active control over its own creations. This is the tendency of legislation in many of the Western States, where the results of government meddling are still fresh in the popular memory. Foremost among these States is Illinois. In the remarkable Constitution just adopted there the great principle is for the first time recognized that the railroad system is exceptional among all industrial pursuits, and must be recognized and dealt with as such. This in itself is an immense stride in advance. It is the concession of a starting-point, the recognition of that new social and political force for which no provision had been made. When a deficiency is fairly acknowledged, we can in America feel a tolerable confidence that it will shortly be supplied. The provisions introduced into the Illinois Constitution are, indeed, crude and unsatisfactory, but they are a beginning, and they at least indicate vigorous minds at work upon the subject in the Northwest. A discussion of these provisions would bring into view at once the very point upon which our State systems have hitherto broken down in their attempts to deal with the railroad development. The probabilities are enormous also that the national system, whenever it takes the form of law, will break down on that same point.

The one striking feature of the Illinois Constitution is the strong resolve of its framers to do away with what are known in England as "private bills," and in this country as special legislation. It is unnecessary to dilate upon the nature of this abuse, which may safely be set down as the greatest danger to which any system of government is liable; it may almost be

said to be the root of all political ills. Legislation should know nothing of individuals. All modern thought tends to the conclusion that the universe is controlled by general laws ; and the belief in special providences is entertained only by the most superstitious. A sound system of government should recognize individuals no more than the laws of nature recognize them. The law should apply to all, without discrimination for or against. The system of special legislation, on the contrary, from top to bottom, is based on a supposed necessity, which is taken for granted as existing, that privileges may be conceded to one or a few which it is not safe or politic to concede to all. Nature never acts in this way, nor will thoroughly enlightened governments do so, when any such exist. The Illinois Constitution deserves to be hailed as a great advance towards the realization of this idea. The framers of this instrument, when they came to dealing with railways, provided for their regulation these articles, among others :—

ARTICLE XI.

CORPORATIONS.

§ 1. "No corporation shall be created by special laws, or its charter extended, changed, or amended ; . . . but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created."

§ 11. "No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line. . . ."

§ 12. "Railways heretofore constructed, or that may hereafter be constructed, in this State, are hereby declared public highways, and shall be free to all persons for the transportation of their property thereon, under such regulations as may be prescribed by law. And the General Assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State."

§ 13. "No railroad corporation shall issue any stock or bonds, except for money, labor, or property, actually received and applied to the purposes for which such corporation was created ; and all stock dividends and other fictitious increase of the capital stock or indebtedness of any such corporation shall be void. . . ."

§ 15. "The General Assembly shall pass laws to correct abuses,

and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises."

Now while it is conceded that special legislation is the bane of all government, it must also be conceded that special legislation has hitherto been found indispensable to any regulation of the railroad systems. The exception once conceded, every railroad came up and demanded its own special immunities and privileges, — its peculiar charter, which was a law unto itself. The extent to which this was carried may be inferred from the three thousand two hundred acts on the statute-book of Great Britain, and the one thousand on that of Massachusetts, — nine tenths of them, in each case, special legislation to meet the supposed requirements of an organized monopoly. The exception and its dangerous nature — the frauds which were perpetrated under it, and the lax and confused system of legislation it was engendering — long ago attracted the public attention and excited its alarm. The press raised its voice, and the people responded by inserting into more than one constitution provisions absolutely inhibiting the passage of any act of a private nature. In other States the Executive accepted the issue; and in New York a long succession of vetoes has only recently vindicated the principle of general legislation. There was in each of these efforts at reform an element of fatal weakness. The fact that the railroad system occupied an exceptional position was ignored. Instead of conceding that this system was made up of a number of monopolies, in regard to the necessities of which a discretion must be exercised, journalists and legislators insisted on placing them in a position exactly similar to that of individuals, amenable to every law of trade. The result was, of course, failure. The monopolies evaded or broke down the law, and were omnipresent in legislatures. There was no machinery in the government adapted to meeting the exceptional case. Reformers failed to realize that, though special legislation was corrupting the whole political system, yet general legislation of the ordinary description would not meet the requirements of the case. It is here that the whole question lies in a nutshell, — how can the

requirements of the railroad system be met, and yet its individual members driven from the legislatures? A means to this end once discovered and incorporated into the general law, and the most difficult part of the railroad problem is solved.

This final result is not attained in the Illinois Constitution; had it been, the value of that instrument would have been more than doubled. Indeed, the provision made in it brings the innovator just to the fatal point; as yet he has done nothing, but the next step involves everything. In spite of its Constitution, Illinois must now slip back into the deep mire of special railroad legislation, or it must go on and solve the problem. The case stands thus: the Constitution implies the passage of (1) laws prescribing reasonable rates of charges on the different railroads, and (2) laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs.

The legislature it seems is to do this work; if so, the work cannot be done; the provision is so much waste paper. It may boldly be laid down as a principle, that no general law can be framed which will meet the exigencies of a whole railroad system in all its manifold details. This is true in almost every respect. A law, for instance, authorizes the taking of land for railroad purposes, but one road requires an exceptional amount of land in a particular locality. A general law regulates station facilities; but while it may apply well to one district, it will be simply ridiculous in its application to another. Finally, take the case of a general law regulating fares and freights,—the very one provided for in the Illinois Constitution. All the members of a railroad system do not exist under the same conditions as to population, traffic, and cost of construction and of operation. Of two roads aggregating the same gross annual receipts, the one will earn nine tenths of the whole by carrying freight, and the other the same proportion by transporting passengers. One road runs across a thickly peopled table-land, crowded with manufacturing villages; another climbs mountain ranges and drains a poor agricultural region. Can one general law regulating fares and freights be framed so as to apply to all of these differing conditions? The proposition conveys its own negative. A general law calculated to affect

all the members of a system must be adapted to the capacity of the weakest member of the system. So of this law, the incubation of which seems to be imposed upon the Illinois legislature, — a general law limiting fares and freights, which will allow the weakest road in the State to live, will be no limitation at all upon the stronger roads, — what is a famine to one is a feast to another. If, turning from this manifest absurdity, the legislature seeks to establish tariffs adapted to particular roads, then the whole evil of special legislation in its worst possible form is upon it. Where, then, is the escape?

We have thus got back to the old puzzle, — how to meet special requirements under general laws. The solution, if found at all, — if failure is not predestined, — will be found by the Illinois legislature in fairly recognizing an evident exception to general conditions, and supplying an executory power specially calculated to meet it. It is the want of this which has brought to naught all efforts at general legislation on this subject up to this time. They have uniformly failed from one defect; they were hard, unyielding, intended to apply to differently conditioned members of one exceptional and most complex system, and yet wholly unprovided with any discretionary, adaptive, or executory power. The law was there, but it did not move. It was as if a criminal law were put upon the statute-book which was to apply to all degrees of crime indiscriminately, without the aid of judge or of officer. And, indeed, this very example illustrates the whole subject. Let us follow out the parallel. The criminal law was once a subject of special legislation. Individual criminals had acts passed to meet their particular cases. The legislature was at one and the same time judge and jury. The legislative and judicial functions of government were, however, separated so long ago, that the community has forgotten that they were ever united; yet it was this division, first introduced under Alfred the Great, which alone made possible the success of parliamentary government. Had it been the discovery of one man, he who made it would have deserved to rank among the greatest benefactors of his kind. In early New England history the distinction was again obliterated. The Great and General Court was in Massachusetts Bay both the source of law and the seat of

supreme justice. This simplicity very shortly disappeared as society became more complex, but it left behind it the fatal legacy of special legislation. The same confusion of functions is exactly what has hitherto existed in regard to railroads ; the result, both in New and Old England, is seen in a statute-book swollen with special enactments, a legislature overwhelmed with business it cannot do and tainted with jobbery of which it cannot rid itself, all resulting in a railroad system which is a confessed failure in everything but its material aspect, with which the legislature could have nothing to do. Can the desired separation be effected ?

The solution of the problem stated in this form seems so obvious, that it is fairly matter of surprise that it has never yet been practically attempted. The legislature should enact its general laws for the requirements of railroads, as it does to meet the innumerable civil and criminal complications which arise ; but, in the one case as in the other, the judicial and discretionary action under the general law should be devolved upon tribunals specially created to take cognizance of them. The legislature declares the rule which is the same to all ; but the degrees of discretion which varying circumstances exact in the application of the rule must constitute a trust necessarily delegated to others. At present all these distinct powers are jealously retained by the legislatures. Their committees sit as courts and take evidence and listen to arguments. So far it is well. At this point, however, instead of framing a general law or dismissing the individual case, they undertake to give a charter to this applicant and to refuse it to that ; to pass a special act in favor of this corporation, and to reject it as regards that ; to authorize an increase of stock here, and to direct the construction of a new depot there. These are functions which no legislative body can successfully perform ; as well undertake to decide every suit at law or to affix the penalty to every crime. Just so long as legislatures insist on themselves doing work of this nature, just so long will corruption increase and the statute-book fall into confusion.

Let us now apply the test to the other principle, that of general legislation, and suppose the strict rule in regard to it incorporated into the constitutions. The exceptional character

of the railroad monopolies must also be acknowledged, as has been done in Illinois and Michigan. The legislature then enacts its general laws imposing regulations; and, where conditions would evidently vary and the exercise of a discretion by some one be incumbent, in all of these cases, instead of hearing each party through its committees and trying to resolve itself into a jury some hundred strong, it would define, as in the criminal law, the limits within which the discretion must be exercised, and refer all questions which may then arise to the tribunal created to deal with them. Take, as an example, all questions of construction or of granting the right to condemn land. The law would, in general terms, lay down the conditions and limitations governing in such cases, and the corporations would be referred to the proper tribunal to see that those conditions existed or that the limitations were observed. So of depot facilities and of accommodations to the public.

The crucial test, however, will be found in the case of freights and fares. How could any tribunal be empowered to regulate these? This, too, is perfectly feasible. Railroad corporations are often spoken of as trustees for the public; they may more properly be regarded as lessees. They receive from the community the monopoly of a proposed thoroughfare; the consideration they pay for this estate is the transportation over it, under certain conditions, of all persons and property that offer. How to regulate those conditions, which in fact fix the consideration rendered to the community by the monopolist for the enjoyment of his grant, is the point now at issue. Hitherto these conditions have been left to fix themselves; the lease has been a perpetual one at a nominal rent. As the monopolist saw fit to reduce his tariff, by so much he raised the rent he paid; he did more work for less pay, for his rent is always in kind,—in work done. As he put up his tariff, he lowered his rent; he did less and the community paid him more. Thus, practically, as long as he could vary his rates he fixed his own rent. This must continue to be the case just so long as railroads are controlled by private parties, if legislatures undertake to settle these conditions themselves. The ownership of the railroads by the State is one solution of the

difficulty, revolutionary in nature and doubtful in result. Another remedy is now sought. To return to the simile of the lease. These leases have hitherto been in perpetuity; leases are not generally so made. They usually fall in for revision at the end of a term of years, and are then either renewed on terms acceptable to both parties for a new term of years, or, in the case of ground leases, if no terms can be agreed upon, the landlord pays for the improvements on an agreed basis, and resumes possession of the property, to let or to hold, as seems to him good. Apply this simple and familiar process to railroads. A general law regulates as nearly as may be the nature and limits of tariffs to be imposed upon and accepted by railroads. All discretion within those limits, made necessary by peculiarities of condition arising out of business, construction, etc., must be devolved on the proper tribunal. Within those limits it is authorized to bind the State to the corporation for a limited term of years, subject to renewal on a revised valuation. The rest is a simple matter of an ordinary lease.

It cannot be said that this plan is complex or difficult to understand, for it is but applying the daily business arrangements of individuals to the transactions of a State. Two objections, however, may be made. It may be said that it is novel. To a degree this is true. No single feature in it is novel, but there is a combination of the Belgian, English, and American systems, in order to arrive at something adapted to the needs and peculiarities of our social and political condition. Tariffs of rates, incorporated into charters and specially adapted to particular routes, are familiar enough in England and France; they are not unknown in this country, but the entire inability of popular bodies, like our legislatures, to deal with the very complex considerations involved has prevented their general adoption. In England those framed by Parliament have not proved satisfactory; in Belgium the legislature delegated the labor to an official with more satisfactory results. The principle of limited terms is not new; the only novelty, if there be any, lies in the machinery provided, through which to bring the tariffs up for periodical revision.

But it will be said, Who will guard the virtue of the tribunal? Why should the corporations not deal with them as with the

legislatures? They may do so, but somewhere and at some point, put on all the checks and balances that human ingenuity can devise, we must come back and rely on human honesty at last. One rule always holds good,—where the most direct responsibility exists, there will the best conduct be found. Corruption loves a throng and shrinks from isolated places. To divide responsibility is to destroy it. The judges of our courts are rarely otherwise than pure; the heads of our official departments are conspicuous for honesty: they are always directly and individually responsible. If we thus can, and indeed, from the necessity of the case, must, confide the charge of the public funds and our personal liberties to mortals like ourselves, acting under the law, it is difficult to see why, except that we never have done so, we cannot trust these other interests to similar mortals. All in such cases depends upon the men. We have had in England and in this country a sufficiency of feeble attempts in this direction—boards of trade, railroad commissions, and various other pieces of machinery. They have all failed, for one reason,—the principle of special legislation was ever kept open in the background behind them. They have uniformly possessed a mere simulacrum of power; their decisions were appealed from, their recommendations were ignored, and their principal duty was to sit patiently by and watch the corporations as they dealt directly with the legislature over their heads. Instead of the legislature saying to the sturdy corporation beggars who infested the lobby, as it would say to civil litigants or to criminals, “Leave us! there is the general law and there is a tribunal specially charged with the interests of you monopolists; go to it!”—instead of this, the boards, commissions, and what not, have ever been placed in the ignominious position of a court, whether civil or criminal, from which in every case an appeal would lie to the legislature itself. A tribunal so constituted can hardly fail, soon or late, to sink into contempt; least of all is it calculated to deal with powerful corporations. As a direct consequence of this conspicuous distrust, these tribunals have almost invariably been made up of very inferior and, not seldom, corrupt men, for no such responsibility and prominence was thrown upon them as forced out capacity and integrity as the

only alternative to failure. Had the same class of appointees, as a rule, been placed upon the bench, the judiciary would long since have sunk into contempt. The duties, the responsibilities, and the characters of those composing these boards should, on the contrary, be brought up to the highest standard,—to an equality, in short, with those of the judges of our courts. Their tribunals should be clothed with all necessary powers and be put forward as if the members were fully competent to represent the interests of the State with an experience and ability, a knowledge of details, and a zeal in their occupation equal to that ever so conspicuously displayed by the agents of the corporations. Such men could certainly be found; the corporations always have them. Meanwhile the whole subject may be summed up in few words: under a system which permits special legislation, boards for the regulation of railroads are useless; they are, however, indispensable under one which confines itself to general laws.

It is not impossible that the defective machinery in our government, to use once more the simile so often employed in this paper, may be strengthened in the way indicated. A new strain has been brought to bear. At present our government occupies the impossible position of a wooden liner exposed to the fire of modern artillery. It was built for no such trial. The railroad corporations, necessarily monopolists, constitute a privileged class, living under a form of government intended to inhibit all class legislation. We must, then, see our government fail in this unexpected crisis, or we must strengthen it in such a manner as to enable it to vindicate its authority. This can only be done through human agency; ingenious statute machinery, without a man inside of it, will only result in certain failure. The other course, also, may fail, as the iron plates of our monitors may be crushed by the weight of novel projectiles; but here, at least, the power of resistance can in some degree be proportioned to the intensity of the strain.

A new work is before those vigorous intellects who, from the editorial rooms of Chicago, inspired the late Illinois Convention. They must now take the next step, or they have made no progress. They must inspire the legislature to complete the work which the convention left unfinished. It is a

case of all or nothing. Should the Illinois legislature undertake to deal otherwise than by general laws with the innumerable discretionary questions involved in every railroad system, then, in so far as the present discussion is concerned, the new constitution is a predestined failure. Should it, however, carry on the work in an intelligent spirit; should it do, what has never yet been done in America, create an able and experienced tribunal to stand between the community and its railroads; should it clothe this tribunal with all necessary power and dignity, and delegate to it that discretion, necessarily left somewhere, in the application of general laws to monopolies; should it declare its decisions final on all points upon which no appeal lay to the courts of law by constitutional right; should it then sternly refer its railroad corporations to this tribunal, and bid them wholly begone from the lobby, or to come there only as petitioners for general legislation; — then, when all this is done, and not until that time, shall we know whether anything is to result from the Illinois experiment. The whole country cannot but watch it with eager curiosity. It is the one alternative, with State ownership as the other. The national question is impending. The whole of that legislation, on which so much in the future depends, is yet to be initiated. It may well depend upon the experiment in Illinois whether this, too, of which all might now be hoped, is not to wallow into the slough of special legislation. It has many times been on the brink of so doing. Should this once happen, the machine is too cumbrous, and the interests involved too enormous, for us soon to extricate ourselves. It is in this regard, in its bearing on the final problem, that each experiment now assumes its value. Out of many failures will come the one success. Illinois, for the present, must deservedly attract the greatest degree of attention. That great State has first recognized in her constitution the magnitude and exceptional nature of the problem. Under that constitution she should not fail to be the first seriously and thoughtfully, perhaps successfully, to grapple with it.



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